

FINAL 2003 REPORT ON THE TEN-YEAR REVIEW OF SOLID WASTE MANAGEMENT PERMITS

Virginia Department of Environmental Quality

*Revised October 2003

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* Note - The only changes made in the October 2003 revision of this document and the associated appendices are modifications to the compliance history reviews reported for Bedford City and Bedford County.

FINAL 2003 REPORT ON THE TEN-YEAR REVIEW OF SOLID WASTE MANAGEMENT PERMITS – September 2003

EXECUTIVE SUMMARY

Under the Virginia Waste Management Act and the Solid Waste Management Regulations, at least once every ten years, the Director must review and issue written findings on the environmental compliance history of each permittee, material changes, if any, in key personnel, and technical limitations, standards, or regulations on which the original permit was based. The reviews are to be undertaken in accordance with time periods established by regulation of the Virginia Waste Management Board for different categories of permits.

This report presents the results of a review of all active solid waste management facility permits issued after July 1, 1993 but prior to July 1, 1994, as required by statute and regulation. Eleven (11) permits issued during this time frame have not closed and have been reviewed for this report.

The review included both an environmental compliance history review and a technical review. The environmental compliance history review consisted of a compilation of the past ten years of inspection records. The findings include the number of inspections conducted each year and the number of alleged violations. The requirements for disclosure statements, including changes to key personnel, were among the criteria examined in the environmental compliance history review. The technical review compared the contents of the existing, individual permits to the contents now required for issuance of a permit. Over the years, the permitting standards have been changed by statute, and by amendments to the governing regulations in March 1993, and May 2001. The findings of the technical review identify the components, or modules, that are required in current permits but that have not been included in the existing, individual permits.

By statute, if the Director finds repeated material or substantial violations of the permittee or material changes in the permittee's key personnel that would make continued operation of the facility not in the best interest of human health or the environment, the Director shall amend or revoke the permit. Also, the Director may amend the permit to include additional limitations, standards or conditions when the underlying standards have been changed by statute or regulation, or as otherwise provided by law.

Any permit amendment will take place in accordance with the Virginia Waste Management Act and the Virginia Administrative Process Act.

The Director retains authority to revoke, amend, or suspend permits in accordance with applicable laws and regulations. The Director also retains authority to address violations of statutory, regulatory, or permit requirements by order or other remedy, including immediate action as necessary, in appropriate circumstances.

FINAL 2003 REPORT ON THE TEN-YEAR REVIEW OF SOLID WASTE MANAGEMENT PERMITS – September 2003

AUTHORITY AND BACKGROUND

This *Final 2003 Report on the Ten-Year Review of Solid Waste Management Permits* is issued pursuant to Virginia statutory and regulatory requirements.

The Virginia Waste Management Act, at Va. Code ' 10.1-1408.1 E., requires the Director of the Department of Environmental Quality (Director and Department, respectively) to review and issue written findings on specific aspects of permitted solid waste management facilities at least once every ten years. The reviews are to be undertaken in accordance with time periods established by regulation of the Virginia Waste Management Board for different categories of permits. The pertinent part of Va. Code ' 10.1-1408.1 E. states as follows:

At least once every ten years, the Director shall review and issue written findings on the environmental compliance history of each permittee, material changes, if any, in key personnel¹, and technical limitations, standards, or regulations on which the original permit was based. The time period for review of each category of permits shall be established by Board regulation.

The same section of the Code addresses amendment or revocation of solid waste management permits based on the required review and findings:

If, upon such review, the Director finds that repeated material or substantial violations of the permittee or material changes in the permittee's key personnel would make continued operation of the facility not in the best interests of human health or the environment, the Director shall amend or revoke the permit, in accordance herewith. Whenever such review is undertaken, the Director may amend the permit to include additional limitations, standards, or conditions when the technical limitations, standards, or regulations on which the original permit was based have been changed by statute or amended by regulation or when any of the conditions in subsection B of § 10.1-1409 exist. The Director may deny, revoke, or suspend any permit for any of the grounds listed under subsection A of § 10.1-1409.

¹ "Key personnel" means the permit applicant and any person employed by the applicant in a managerial capacity, or empowered to make discretionary decisions, with respect to the solid waste operations. See Va. Code §10.1-1400.

The Virginia Waste Management Board established by regulation that the first review of permits would address facilities in existence prior to July 1, 1991 and facilities permitted after July 1, 1991 would be reviewed prior to the ten year anniversary of permit issuance.² Eleven (11) solid waste management facilities with permits issued after July 1, 1993, but prior to July 1, 1994 have been reviewed for this report. Three of the eleven permits reviewed have not been constructed and therefore have not been inspected by the Department. A technical review was performed on these permits since the facilities have valid permits issued by the Department allowing them to construct a facility to manage solid waste. Prior to commencing operation, these facilities will be inspected by Departmental staff to ensure construction of the unit meets current standards.

In accordance with the statute, the review included both an environmental compliance history review and a technical review of the permit.

ENVIRONMENTAL COMPLIANCE HISTORY REVIEW

The environmental compliance history review consisted of a compilation of information from the Department's inspection records. The information included the number of inspections conducted each year and the number of alleged violations. The requirements for disclosure statements, including changes to key personnel, were among the criteria examined in this review.

Staff from the Department's regional offices conducted environmental compliance history reviews for the facilities located in their region. Staff examined all available inspection records between 1993 and 2002. From this review, a simple tabulation was made of the number of inspections conducted and the number of alleged violations recorded. For consistency, worksheets were developed for conducting the reviews. The same worksheet was used for all types of facilities included in the review.

TECHNICAL REVIEW

The technical review compared the contents of the existing, individual permits for the facilities to the contents now required for issuance of a permit. Over the years, the permitting standards have been changed by statute, and by amendments to the governing regulations in March 1993, and May 2001.

Staff from the Department's central office and a regional office conducted the technical reviews. In particular, each of the eleven permits was reviewed to ascertain whether it contains the documentation required in a current solid waste management facility permit, as specified in the Virginia Solid Waste Management Regulations (VSWMR),³ including requirements of the Virginia Waste Management Act. The

² Virginia Solid Waste Management Regulations (VSWMR), 9 Virginia Administrative Code (VAC) 20-80-100.C.

³ 9 VAC 20-80-10, et seq.

standards of VSWMR address the design, construction, operation, monitoring, closure, and post-closure maintenance for landfills and other solid waste management facilities, as necessary. Applicable permit elements, or modules, or portions of such modules, that are not included in existing, individual permits issued between July 1, 1993, and July 1, 1994 were identified during the review.

As before, for consistency, a worksheet was developed for conducting the reviews. A separate worksheet was completed for each facility to document the content of the facility's permit compared to current requirements.

RESPONSE TO COMMENT

The Department issued a report in May 2003 and accepted comments from facilities and the public until July 24, 2003. Four commenters submitted comments on the findings contained in this report. Detailed responses to comments are found in Attachment 1 of this final report.

Two commenters noted that their facilities have submitted permit amendments addressing elements noted as deficiencies on their Permit Review Checklist. Information listed on the Permit Review Checklist reflects contents of the permit on the date the permit was reviewed. The Department will consider any additional amendments or modifications the Department has approved since reviewing the permit when considering criteria for amending permits.

Other comments included information on the number of inspection and alleged violations noted on Compliance Review Worksheets. The Department re-reviewed compliance histories of individual facilities who submitted comments on their compliance histories and made changes when appropriate.

FINDINGS

The findings of the Ten-Year Permit Review are the product of the environmental compliance history review and the technical review. The written findings for individual facilities are contained in Appendices 1 through 4, as described below. Summary information is provided in Tables 1 through 4.

The findings of the environmental compliance history reviews for landfills are provided in Appendix 1, which contains a Compliance Review Worksheet for each landfill subject to this report. The findings of the environmental compliance history reviews for non-landfills are provided in Appendix 2, which contains a Compliance Review Worksheet for the non-landfill facility subject to this report. The compliance criteria are listed in the first column of each worksheet. The number of inspections conducted at the facility by year is provided in the first two rows of each worksheet. The number of times an alleged violation was cited in the inspection reports for a particular

year is displayed in the cell corresponding to the criteria and year. Each worksheet also presents the average number of alleged violations per inspection.

A summary of the environmental compliance history review for all landfills reviewed is included as Table 1. It lists the number of inspections, the number of alleged violations, and the average number of alleged violations per inspection for all landfills subject to this report. The same information for the non-landfill facility is listed in Table 2. Table 3 shows the total alleged violations and the total alleged violations per inspection for individual landfills. Table 4 shows the same information for the non-landfill facility. These tables show that some facilities have more instances of alleged violations than others do.

The findings of the technical reviews for landfills are provided in Appendix 3, which contains a Permit Review Checklist for each landfill subject to this report. The first part of the worksheet contains information on the landfill, the reviewer, and a history of permitting activities (amendments and variances) for the facility. It also contains a summary of the comparison of the existing permit to the current regulatory requirements. The remainder of the worksheet for each facility details the current requirement, whether that requirement is found in the existing permit, the source of the requirement, and comments. The findings of the technical review for the non-landfill facility is provided in Appendix 4, which contains a Permit Review Checklist for the non-landfill facility.

AMENDMENT OR REVOCATION OF PERMITS

As noted, under the governing statute, if the Director finds repeated material or substantial violations of the permittee or material changes in the permittee's key personnel that would make continued operation of the facility not in the best interest of human health or the environment, the Director shall amend or revoke the permit. Also, the Director may amend the permit to include additional limitations, standards or conditions when the underlying standards have been changed by statute or regulation, or as otherwise provided by law. Any permit amendment is subject to the requirements of the Virginia Waste Management Act, Va. Code § 10.1-1400, et seq., and Administrative Process Act, Va. Code § 2.2-4000, et seq.

The Director retains authority to revoke, amend, or suspend permits in accordance with applicable laws and regulations. The Director also retains authority to address violations of statutory, regulatory or permit requirements by order or other remedy, including immediate action as necessary, in appropriate circumstances.

**Table 1- Total Alleged Violations
Landfills (Sanitary, and Industrial Landfills)**

Year	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	TOTAL
Number of Inspections	0	14	24	23	23	25	39	70	59	55	332
Alleged Violations	0	15	38	41	13	23	29	23	3	7	192
Average Alleged Violations	0	1.07	1.58	1.78	0.57	0.92	0.74	0.33	0.05	0.13	0.58

Average Alleged Violations per Inspection: 0.58

**Table 2- Total Alleged Violations
Non-Landfills (Material Recovery and Composting Facility)**

Year	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	TOTAL
Number of Inspections	0	0	0	1	1	2	3	4	4	3	18
Alleged Violations	0	0	0	2	2	1	0	3	0	0	8
Average Alleged Violations	0	0	0	2.00	2.00	0.50	0.00	0.75	0.00	0.00	0.44

Average Alleged Violations per Inspection: 0.44

**Table 3- Individual Facilities Alleged Violations
Landfills (Sanitary and Industrial Landfills)**

Facility Name	Permit #	DEQ Region	Total Alleged Violations	Average Alleged Violations Per Inspection
Old Dominion Electric/ Virginia Power- Clover Power Station Industrial Landfill	556	SCRO	0	0.00
Lynchburg Sanitary LF	558	SCRO	60	1.18
Mt. Athos- Griffin Pipe Landfill**	559	SCRO	0	0.00
Bedford County LF #2	560	WCRO	19	0.37
Atlantic Waste Disposal Sanitary Landfill	562	PRO	9	0.16
Amherst County SLF	563	SCRO	36	0.80
Tazewell County Sanitary Landfill	564	SWRO	31	0.56
Surry County Sanitary Landfill**	565	PRO	0	0.00
Louisa County Sanitary Landfill**	567	NVRO	0	0.00
City of Bedford - Hylton Site	569	WCRO	37	0.70

**Table 4- Individual Facilities Alleged Violations
Non-Landfills (Material Recovery and Composting Facility)**

Facility Name	Permit #	DEQ Region	Total Alleged Violations	Average Alleged Violations Per Inspection
Greene County Materials Recovery and Co. Composting Facility	568	VRO	8	0.44

** Denotes facilities that have not been constructed.

Appendix 1 - Compliance Review Checklists for Landfills

Sanitary Landfills and Industrial Landfills

*This appendix is available as a separate download from the
Department's website.*

Appendix 2 - Compliance Review Checklist for Non-Landfills

Material Recovery and Composting Facility

*This appendix is available as a separate download from the
Department's website.*

Appendix 3 - Permit Review Checklists for Landfills

Sanitary Landfills and Industrial Landfills

This appendix is available as a separate download from the Department's website.

Note: The technical review does not include documents that facilities may have developed or submitted for approval in accordance with regulatory requirements, but that have not been included in the permit itself. Therefore, a notation in the technical review that a component or module is not included in a permit does not necessarily imply that a facility lacks a plan approved by the Department addressing that element or that the facility is out of compliance. It may mean, however, that the documents that have been developed, submitted, or approved are not entirely consistent with the current requirements for issuance of a permit. Facilities that lack current, facility specific permit modules remain subject to their existing permits, any approved plans, and the standards in the applicable regulations.

Appendix 4 - Permit Review Checklist for Non-Landfills

Material Recovery and Composting Facility

This appendix is available as a separate download from the Department's website.

Note: The technical review does not include documents that facilities may have developed or submitted for approval in accordance with regulatory requirements, but that have not been included in the permit itself. Therefore, a notation in the technical review that a component or module is not included in a permit does not necessarily imply that a facility lacks a plan approved by the Department addressing that element or that the facility is out of compliance. It may mean, however, that the documents that have been developed, submitted, or approved are not entirely consistent with the current requirements for issuance of a permit. Facilities that lack current, facility specific permit modules remain subject to their existing permits, any approved plans, and the standards in the applicable regulations.

Attachment 1 – Responses to Comments

Commenter	Comment number	Comment	Response	Region
1	1	Bedford County has submitted a major permit amendment to permit 560 for an expansion of the landfill that will also address the findings/limitations listed noted during the ten year permit review	A major modification request for permit 560 was received after the permit was reviewed. The findings/limitations noted on the permit review checklist are being addressed in the referenced permit amendment.	WCRO
1	2	Bedford County states that permit 560 was amended April 15, 2002 to include posi-shell as an alternate daily cover.	The permit review checklist for permit 560 has been corrected.	WCRO
1	3	Bedford County states that their files indicate the following compliance information: 1994- 3 inspections, 6 alleged violations, 1996- 4 inspections, 4 alleged violations, 1998- 4 inspections, 1 alleged violations, 1999- 10 inspections, 0 alleged violations.	After re-reviewing the facility file, the compliance review worksheet for permit 560 was revised to state 4 inspections were conducted in 1998, not 5 as previously noted. In addition, the violations for 1998 were revised from 3 to 1. The other information has been re-reviewed and changes are not warranted.	WCRO
3	4	Amherst County states they opened in 1995 and have no record of any inspections conducted that year.	SCRO regional office has contacted Amherst County and has provided them with copies of the inspection reports found in departmental files. No changes are required to the compliance review worksheet.	SCRO
3	5	Amherst County states they received two inspections in 1997, not four inspections.	SCRO regional office has contacted Amherst County and has provided them with copies of the inspection reports found in departmental files. No changes are required to the compliance review worksheet.	SCRO
3	6	Amherst County states their records indicate they were inspected four times in 1998, and cited for six violations.	SCRO regional office has contacted Amherst County and has provided them with copies of the inspection reports found in departmental files. No changes are required to the compliance review worksheet.	SCRO

3	7	Amherst County states their records show they were inspected three times, not four in 2002.	Departmental staff conducted inspections on 2/20/02, 5/31/02, 6/26/02, and 10/23/02. However, the inspection report for the inspection conducted on 6/26/98 had not been provided to the facility. A copy of the 6/26/02 inspection report has been provided to the facility. No alleged violations were noted during the inspection in question. No changes are required to the compliance review worksheet.	SCRO
3	8	Amherst County disagrees with item number seven on the summary checklist which states the time allowed for closure is not included in the permit. This information is found in permit attachment XII, Closure/Post closure plan, pages 5 and 6. A copy of the referenced page has been provided.	The permit review checklist for permit 563 has been corrected.	SCRO
2	9	Atlantic Waste states past alleged violations noted at the facility (permit 562) have been minor, and notices of violations were not issued as a result of the alleged violations. Atlantic Waste is committed to compliance with its permit and state and federal regulations.	The department appreciates the efforts the facility has taken to comply with Virginia's statutes and regulations and the facility permit.	PRO
2	10	If the department amends Permit 562 as a result of the ten year permit review, Atlantic Waste requests the opportunity to comment on any changes made to their permit.	The department will allow facilities the opportunity to comment on any permit amendment prior to amending the permit.	PRO
2	11	Atlantic Waste believes the good compliance history of the site (0.16 alleged violations per inspection) does not warrant changes to permit 562.	The permit review included both compliance information and information on permit requirements. The number of alleged violations is only one element the director may use to evaluate the need for permit amendments. Facilities will be contacted at a future date if the director intends to amend their permit.	PRO

4	12	On July 17, 2003, Dominion requested permit 556 be amended to include an unauthorized waste acceptance plan.	The department recently received this amendment request and is working on processing the amendment. This noted limitation is being addressed through this permit amendment.	SCRO
4	13	On July 17, 2003, Dominion requested permit 556 be amended to include the requirement for DEQ inspection at closure.	The department recently received this amendment request and is working on processing the amendment. This noted limitation is being addressed through this permit amendment.	SCRO
4	14	On July 17, 2003, Dominion requested permit 556 be amended to include the post closure care period in the permit.	The department recently received this amendment request and is working on processing the amendment. This noted limitation is being addressed through this permit amendment.	SCRO

Commenters

Commenter code	Name	Address
1	Mr. Sheldon Cash Bedford County Solid Waste Manager	122 E. Main St. Bedford, VA 24523
2	Mr. Richard Guidry Atlantic Waste Disposal, Inc.	3474 Atlantic Lane Waverly, VA 23890
3	Ms. Teresa Nuckols Amherst County Solid Waste Director	PO Box 779 Madison Heights, VA 24572
4	Mr. M. G. Deacon, Jr. Dominion Generation	5000 Dominion Blvd. Glen Allen, VA 23060